

April 19, 2017

**VIA E-MAIL AND FEDERAL EXPRESS**

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**Re: Diamond Alkali Superfund Site – OU2 Cash Out Settlement for Berol Corporation**

Dear Mr. Schaaf and Mr. Fajardo:

I write in follow-up to my April 12, 2017 letter and my April 17<sup>th</sup> phone call with Mr. Fajardo to urge the inclusion of my client, Berol Corporation (“Berol”), in the cash out settlement that EPA offered to certain PRPs on March 30, 2017, in connection with OU2 of the Diamond Alkali Superfund Site.

Neither EPA nor any other party has alleged (and there is no evidence or reason to believe) that Berol is associated with the disposal or release of any of the contaminants of concern identified in the OU2 ROD. As such, we do not understand why Berol would be excluded from settlement when EPA’s March cash out offer states, “EPA has designated parties that are not associated with the disposal or release of any of those hazardous substances identified as contaminants of concern for OU2, as identified in the OU2 ROD, as parties eligible for cash out settlement.”

On April 17, 2017, I spoke to Mr. Fajardo to answer any questions about my April 12<sup>th</sup> letter and to ask about EPA’s anticipated next steps in the settlement process for OU2. We appreciate Mr. Fajardo promptly returning my phone call and explaining EPA’s next steps, but we are very concerned about those steps and still do not understand why Berol is excluded. Mr. Fajardo indicated that EPA has concluded it will not consider any additional parties for inclusion in EPA’s current round of cash out settlements. I

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reiterated that Berol fits squarely within the criteria for EPA's current round of cash out settlement. However, Mr. Fajardo clearly stated that there is no possibility of further consideration for inclusion in this round of cash out settlement. Rather, remaining PRPs would be subject to a future allocation process before being considered for potential cash out settlements. If I have misstated EPA's position, please let me know.

Berol fits squarely within the criteria for EPA's current round of cash out settlements—*i.e.*, it is "not associated with the disposal or release of any of those hazardous substances identified as contaminants of concern for OU2, as identified in the OU2 ROD." Under these circumstances, there is no justifiable basis for requiring Berol to undergo the time and expense associated with participating in a future allocation before being considered for a cash out settlement.

We respectfully request EPA to reconsider its position and offer Berol the opportunity to participate in this settlement with similarly situated parties. If EPA will not consider Berol for settlement until after an allocation proceeding, we would appreciate the opportunity to further discuss Berol's position with you at your earliest convenience.

Sincerely,



Andrew N. Sawula

cc: Eric J. Wilson, USEPA, Region II  
Kristin Holloway Jones, Esq., Newell Brands Inc.